



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Bob Wieckowski, Vice Mayor
Anu Natarajan
Bill Harrison
Suzanne Lee Chan

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Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

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Mary Kaye Fisher, Interim Human Resources Dir.
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Lori Taylor, Economic Development Director
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

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Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
MAY 4, 2010
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

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- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – None.*
- 2.3 **MISSION BOULEVARD SIDEWALK AND PEDESTRIAN SIGNAL IMPROVEMENT PROJECT**
Approval of Plans and Specifications and Award of Contract in the Amount of \$115,189 to the Lowest Responsible Bidder for the Mission Boulevard Sidewalk and Pedestrian Signal Improvement Project Between Callery Court and Driscoll Road, City Project No. 8691 (PWC)

Contact Person:

<i>Name:</i>	<i>Jeanne Suyeishi</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4728</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>jsuyeishi@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATION:

1. *Approve the plans and specifications for the Mission Boulevard Sidewalk and Pedestrian Signal Improvement Project between Callery Court and Driscoll Road, City Project No. 8691 (PWC).*
2. *Accept the bid and award the construction contract for Mission Boulevard Sidewalk and Pedestrian Signal Improvement Project between Callery Court and Driscoll Road, 8691 (PWC) to the lowest responsible bidder, Sposeto Engineering, Inc., in the amount of \$115,189.00, and authorize the City Manager or his designee to execute the contract.*

2.4 SOLSTICE AMENDMENT & TRACT 8040 – 2400 & 2450 DURHAM ROAD (PLN2010-00161)

Public Hearing (Published Notice) to Consider the Planning Commission's Recommendation to Introduce an Ordinance for a Planned District Major Amendment to P-2006-274 to Permit Modifications To a Previously Approved Project That Would Allow For The Creation Of Individual Lots Instead Of Condominium Units and Minor Architectural Changes

Contact Person:

Name:	Clifford Nguyen	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4769	510-494-4527
E-Mail:	cnguyen@fremont.gov	jschwob@fremont.gov

RECOMMENDATION:

1. *Hold a public hearing.*
2. *Find that the previously approved Mitigated Negative Declaration and Mitigation Monitoring Program (Informational 3) completed in compliance with the requirements of the California Environmental Quality Act (CEQA) are adequate for this project and that it reflects the independent judgment of the City.*
3. *Find that the proposed project is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing Chapter as enumerated within the staff report.*
4. *Find that the proposed subdivision as shown in Exhibit "B" to PLN2010-00161, Vesting Tentative Tract Map 8040, is consistent with the goals, policies and objectives of the City of Fremont's General Plan. Government Code Section 66474 provides that a tentative map application must be denied if certain specified findings are made. None of those findings can be made in this instance as set forth in Exhibit "C" to PLN2010-00161.*
5. *Waive full reading and introduce an ordinance amending the Precise Plan for P-2006-274.*
6. *Direct staff to prepare and the City Clerk publish a summary of the ordinance.*
7. *Approve the proposed project as shown on the Exhibit "A" and Exhibit "B" to PLN2010-00161, based upon the Findings and Conditions of Approval set forth in Exhibit "C" to PLN2010-00161.*

2.5 **ADOPT GUIDING PRINCIPLES FOR FUTURE DEVELOPMENT OF THE WARM SPRINGS/SOUTH FREMONT AREA**

Consider and Adopt a Resolution Establishing Guiding Principles for Future Development of the Warm Springs/South Fremont Area

Contact Person:

<i>Name:</i>	<i>Jill Keimach</i>	<i>Jeff Schwob</i>
<i>Title:</i>	<i>Community Development Director</i>	<i>Planning Director</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4767</i>	<i>510-494-4527</i>
<i>E-Mail:</i>	<i>jkeimach@fremont.gov</i>	<i>jschwob@fremont.gov</i>

RECOMMENDATION: Consider and Adopt a Resolution Establishing Guiding Principles for Future Development of the Warm Springs/South Fremont Area.

3. CEREMONIAL ITEMS

- 3.1 Proclamation: Affordable Housing Week
- 3.2 Proclamation: Bike to Work Day
- 3.3 Resolution: Recognizing ClubSport for AED Save
- 3.4 Proclamation: Public Service Recognition Week: May 3-9, 2010
- 3.5 Proclamation: Mormon Helping Hands Day: May 8, 2010

4. PUBLIC COMMUNICATIONS

- 4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 PROPOSED NEW ALAMEDA COUNTY TRANSPORTATION COMMISSION (ACTC) JOINT POWERS AGREEMENT

Adopt a Resolution Approving the Joint Powers Authority creating the Alameda County Transportation Commission (ACTC) by Merging the Alameda County Congestion Management Agency (ACCMA) and Alameda County Transportation Improvement Authority (ACTIA); and Approving an Amendment to the Existing Joint Powers Agreement for the Alameda County Congestion Management Agency (CMA)

Contact Person:

Name:	Kunle Odumade	Jim Pierson
Title:	Transportation Engineer	Director
Dept.:	Transportation and Operations	Transportation and Operations
Phone:	510-494-4746	510-494-4722
E-Mail:	kodumade@fremont.gov	jpierson@fremont.gov

RECOMMENDATION: Adopt a Resolution approving the Joint Powers Agreement creating the Alameda County Transportation Commission (ACTC) and approving an amendment to Section 10.a of the existing Joint Powers Agreement for the Alameda County Congestion Management Agency (ACCMA), and authorize the Mayor or City Manager to execute the necessary agreements.

7.2 REGULATION AND MAINTENANCE OF SIDEWALKS AND STREET TREES

Consider Introduction of an Ordinance Adopting Regulations Pertaining to the Planting, Pruning, and Removal of Street Trees and Landowner Responsibility and Liability for Street Tree and Sidewalk Safety and Maintenance

Contact Person:

Name:	Karena Shackelford	Jim Pierson
Title:	Business Manager	Director
Dept.:	Transportation & Operations	Transportation & Operations
Phone:	510-979-5702	510-494-4722
E-Mail:	KShackelford@fremont.gov	JPierson@fremont.gov

RECOMMENDATIONS:

1. Introduce the proposed ordinance amendment of the Street Tree Ordinance and conforming amendments to the Tree Preservation Ordinance, the Encroachment Ordinance and the Subdivision Ordinance.
2. Rescind the Sidewalk and Concrete Repair Policy and associated resolutions.

7.3 AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE A CONTRACT FOR AN ON-SITE FLEET PARTS AND INVENTORY PROGRAM

Authorization for the City Manager to Execute a Contract with Genuine Parts Company, Doing Business as Napa Auto Parts, in an Amount not to Exceed \$1,331,844 for a Three-Year Period for an On-Site Fleet Parts and Inventory Program

Contact Person:

Name:	Sean O'Shea	Frank Morgan
Title:	Management Analyst	Deputy Director for Maintenance Services
Dept.:	Transportation & Operations	Transportation & Operations
Phone:	510-494-4777	510-979-5701
E-Mail:	soshea@fremont.gov	fmorgan@fremont.gov

RECOMMENDATION:

1. Authorize the City Manager or designee to enter into an agreement with Genuine Parts Company, doing business as Napa Auto Parts, for an on-site parts and inventory program, for a three-year contract with five additional one-year options, in an amount not to exceed \$443,948 in any contract year through June 30, 2013, with a total contract value not to exceed \$1,331,844 during the initial three-year contract term; and
2. Authorize the City Manager or designee to execute up to five one-year extensions to the contract with Genuine Parts Company for an on-site fleet parts and inventory program as described herein; and
3. Authorize the City Manager or designee to amend the agreement to increase the annual not-to-exceed amount, if necessary, by up to 20% in any year, so long as sufficient budget appropriation exists, to provide for year-to-year variance in parts and/or service needs.

7.4 GENERAL PLAN 2030—OVERVIEW OF REMAINING DRAFT ELEMENTS PRIOR TO ISSUANCE OF WORKING DRAFT

Overview of Parks and Recreation, Public Facilities, Economic Development, Conservation and Natural Resources, and Safety Elements; and Discussion of Next Steps Prior to Public Issuance of Working Draft of General Plan 2030

Contact Person:

Name:	Dan Schoenholz	Jeff Schwob
Title:	Policy and Special Projects Manager	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4438	510-494-4527
E-Mail:	dschoenholz@fremont.gov	jschwob@fremont.gov

RECOMMENDATION: Provide input to staff on goals, policies and measures presented.

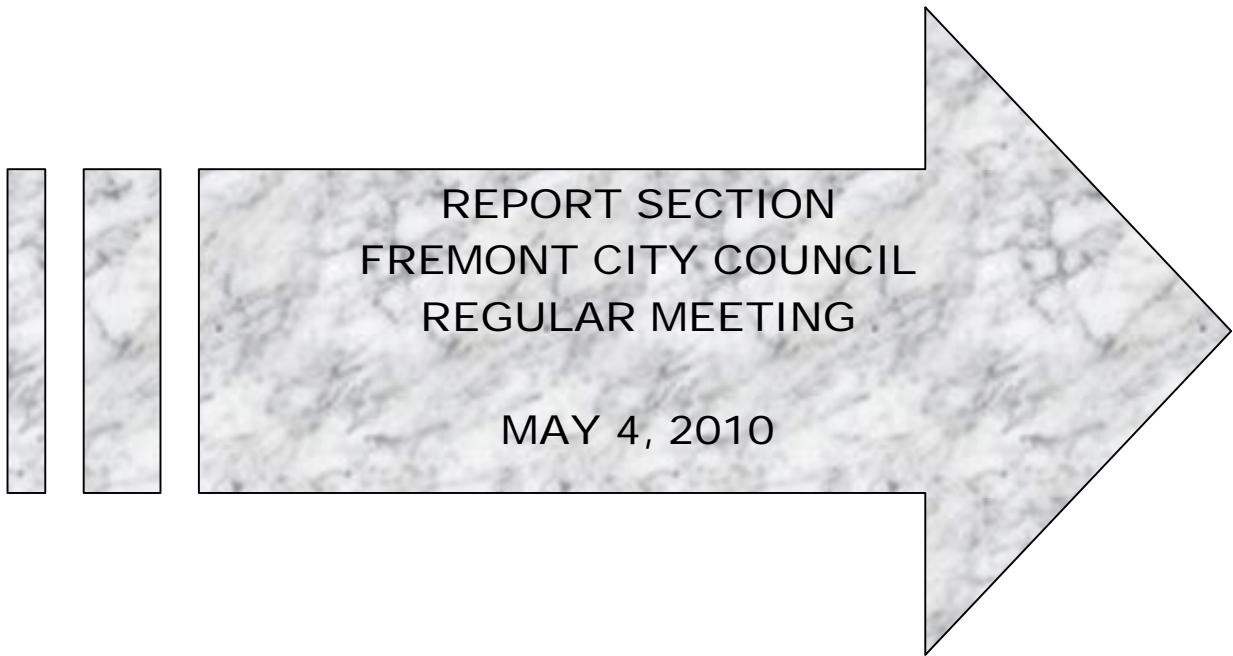
8. COUNCIL COMMUNICATIONS

8.1 Council Referrals

- 8.1.1 COUNCILMEMBER CHAN REFERRAL: Request the City Council to Consider Supporting “Get Connected!” a Public Awareness and Education Program Designed to Reach California Residents that have not yet Adopted Broadband Technology

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



REPORT SECTION
FREMONT CITY COUNCIL
REGULAR MEETING

MAY 4, 2010

***2.3 MISSION BOULEVARD SIDEWALK AND PEDESTRIAN SIGNAL IMPROVEMENT PROJECT**

Approval of Plans and Specifications and Award of Contract in the Amount of \$115,189 to the Lowest Responsible Bidder for the Mission Boulevard Sidewalk and Pedestrian Signal Improvement Project Between Callery Court and Driscoll Road, City Project No. 8691 (PWC)

Contact Person:

Name:	Jeanne Suyeishi	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4728	510-494-4748
E-Mail:	jsuyeishi@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that City Council approve the plans and specifications for the Mission Boulevard Sidewalk and Pedestrian Signal Improvement project between Callery Court and Driscoll Road, City Project No. 8691 (PWC), accept the bid and award the contract for construction to the lowest responsible bidder, Sposeto Engineering, Inc., in the amount of \$115,189.00.

BACKGROUND: On March 24, 2008, the City was awarded a \$218,340 State Safe Routes to School (SR2S) Grant to construct new sidewalk on the west side of Mission Boulevard between south of Driscoll Road to Callery Court and install crosswalk, curb ramps and pedestrian signals at the adjacent signalized intersection of Mission Boulevard and Driscoll Road. On September 2, 2008, City Council accepted the SR2S Grant in the amount of \$218,340 for the Mission Boulevard Sidewalk and Pedestrian Signal project.

The project is supported and recommended by the Parent Teacher Associations (PTA) of Hopkins Junior High School and Mission San Jose High School, school staff, the Fremont Council of PTAs and their Traffic Safety Committee.

DISCUSSION/ANALYSIS: The proposed project would involve construction of 1,100 feet of new sidewalk on the west side of Mission Boulevard (Route 238 & within Caltrans right-of-way) beginning at the end of the current sidewalk located approximately 260 feet south of the intersection of Mission Boulevard and Driscoll Road and ending at the sidewalk located at the Mission San Jose High School driveway (opposite Callery Court). The project will also install a crosswalk, curb ramps and pedestrian signals at the adjacent signalized intersection of Mission Boulevard and Driscoll Road.

The proposed project will improve pedestrian facilities, result in improved accessibility at the intersection, close an existing sidewalk gap between Mission San Jose High School and Hopkins Junior High School, and provide a south side crossing for the Mission Boulevard/Driscoll Road intersection. Hopkins Junior High School (student population of 1,102) and Mission San Jose High School (student population of 2,115) generate a high number of pedestrian trips during the morning and afternoon school peak hours.

DISCUSSION/ANALYSIS:

Bid Results: Bids were received on April 20, 2010 for the Mission Boulevard Sidewalk and Pedestrian Signal Improvement project between Callery Court and Driscoll Road, City Project No. 8691 (PWC). Bids were received, as follows:

<u>BIDDER</u>	<u>TOTAL BID</u>	<u>RANK</u>
Sposeto Engineering, Inc.	\$115,189	1
FBD Vanguard Construction Engineering, Inc.	\$124,662	2
JJR Construction, Inc.	\$128,063	*3
RP Engineering Contractors, Inc.	\$133,430	4
Guerra Construction Group	\$144,535	*5
Wattis Construction Co., Inc.	\$150,356	6
Alaniz Construction, Inc.	\$155,460	7
Engineer's Estimate	\$185,000	

* Mathematically corrected

The low monetary bidder, Sposeto Engineering, Inc., is experienced in this type of work and is a responsible contractor. The contractor has completed contracts of similar nature with the City in a satisfactory manner.

Project Costs and Funding: The following is a summary of actual and estimated project costs:

Preliminary Engineering, Design & Administration	\$42,000
Construction Contract (Low Bid)	\$115,189
(Includes \$16,500 in construction contingency)	
Construction Inspection, Surveying and Administration (estimate)	\$28,000
Project Contingencies	<u>\$30,000</u>
Total Estimated Cost:	\$215,189

Funding programmed for the project is as follows:

<u>Source</u>	<u>Description</u>	
Fund 509	ACTIA Measure B-Bike/Pedestrian Funds	\$84,279
Fund 525	State Safe Routes to School Grant	<u>\$218,340</u>
	Total Estimated Available Funding	\$302,619

Based on the current project estimate, there are sufficient funds available in this project.

ENVIRONMENTAL REVIEW: This project is categorically exempt under Section 15301 (c) of the Guidelines for the California Environmental Quality Act (CEQA) as a minor alteration of an existing facility. A Notice of Exemption/Statement of Exemption was filed with the County Clerk on April 23, 2010.

MAINTENANCE IMPACT: The annual cost of maintenance for labor and materials for this project is within the existing operating budget.

ENCLOSURE: [Project plan](#)

RECOMMENDATION:

1. Approve the plans and specifications for the Mission Boulevard Sidewalk and Pedestrian Signal Improvement Project between Callery Court and Driscoll Road, City Project No. 8691 (PWC).
2. Accept the bid and award the construction contract for Mission Boulevard Sidewalk and Pedestrian Signal Improvement Project between Callery Court and Driscoll Road, 8691 (PWC) to the lowest responsible bidder, Sposeto Engineering, Inc., in the amount of \$115,189.00, and authorize the City Manager or his designee to execute the contract.

***2.4 SOLSTICE AMENDMENT & TRACT 8040 – 2400 & 2450 DURHAM ROAD
(PLN2010-00161)**

**Public Hearing (Published Notice) to Consider the Planning Commission's
Recommendation to Introduce an Ordinance for a Planned District Major Amendment to
P-2006-274 to Permit Modifications To a Previously Approved Project That Would Allow
For The Creation Of Individual Lots Instead Of Condominium Units and Minor
Architectural Changes**

Contact Person:

Name:	Clifford Nguyen	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4769	510-494-4527
E-Mail:	cnguyen@fremont.gov	jschwob@fremont.gov

Executive Summary:

In March 2008, the City Council approved Planned District P-2006-274, together with Vesting Tentative Tract Map 7931, to allow the Collina Vista development (now "Solstice") consisting of 48 detached condominium units. The applicant proposes to change the development from condominium units to traditional single family homes on individual lots and make minor changes to the building architecture. The proposal requires a new vesting tentative map and a major amendment to the planned district precise plan. Staff and the Planning Commission recommend approval of the applicant's proposed vesting map and planned district amendment, based on findings and subject to conditions.

BACKGROUND:

1. In 1960, a 2,200 square foot single-family home was constructed on one of the parcels at 2400 Durham Road.
2. In 1964, the Planning Commission approved a Conditional Use Permit (U-64-49), which permitted a 15,500 square foot religious facility on the adjoining parcel at 2450 Durham Road.
3. From 1991 to 1998, the Planning Commission approved three separate amendments to the Conditional Use Permit that permitted: (a) a 21,000 square foot addition of the church; (b) a childcare center within the church; and, (c), the placement of two modular structures for religious instruction.
4. In May 2007, the City Council adopted a Resolution which established the site's underlying land use designation of Medium Density Residential (11-15 dwelling units per acre).
5. In March 2008, the City Council approved Planned District P-2006-274. The Planned District included an architectural building and site precise plan, Vesting Tentative Tract Map 7931 for condominium purposes, a preliminary grading plan, and a private street plan.
6. In March 2010, the Planning Commission recommended approval of the applicant's proposed vesting map and planned district amendment.

SUMMARY OF PROJECT ACTIONS FOR CONSIDERATION:

At tonight's hearing, the City Council is charged with completing two primary tasks:

1. Consider the approval of Vesting Tentative Tract Map 8040 based on findings specified in Fremont Municipal Code Section (FMC) 8-1418 to permit subdivision of the land into 48 lots for single family homes and other common lots.
2. Consider adoption of an ordinance amending the precise plan for P-2006-274 based on findings specified in FMC Section 8-21813 to incorporate the new tentative map and minor changes in building architecture into the precise plan.

PROJECT DESCRIPTION:

The applicant proposes to change the form of ownership in the project from condominium units to single family homes, and to make architectural refinements to Plans 2 through 5 of the previously approved building plans. Otherwise, the development project will remain as it was originally approved. The architectural modifications generally include increasing the height of each home plan by about 4 feet (just under 35 feet in height as measured to roof ridge) to allow for better reconfiguration of floor plans and increase of the third floor area. The applicant proposes the elimination of four previously approved Plan 1s in favor of Plan 2s for Lots 3, 15, 16, and 48. Lots 16 and 48 are located closest to the existing adjacent residential neighborhood. These two lots, however, are sited at an angle which partially obscures direct views into the rear yards of adjacent neighborhoods for increased privacy.

DISCUSSION/ANALYSIS:

To accomplish the project as proposed by the applicant, the following approvals are required:

1. New Vesting Tentative Tract Map (VTTM) 8040. If approved, VTTM 8040 will establish 48 individually owned single family lots instead of the previously approved 48 condominium units. The original vesting map created 29 lots for condominium purposes. New VTTM 8040 will create 48 single family lots and 17 common lots. No changes are proposed to the general layout of the dwelling units and common areas in the development, siting and detached physical appearance of the single-family homes. VTTM 8040 will replace previously approved Vesting Tentative Tract Map 7931.
2. Planned District Major Amendment. A major amendment to the existing Planned District (P-2006-274) is necessary to incorporate new VTTM 8040 if it is approved. The amendment is necessary because the previously approved tentative map (VTTM 7931) is a component of the precise plan for the planned district. The proposed changes to the building architecture are also included in the amendment.

In order to grant the requested approvals, VTTM 8040 and the major amendment to P-2006-274 must be found consistent with the General Plan and Fremont Municipal Code (Zoning Ordinance). Based on analysis below, staff finds that the proposed project is in conformance with General Plan and Zoning Ordinance. Proposed findings for approval are contained in Exhibit "C".

General Plan Conformance:

The existing General Plan land use designation for the project site is Medium Density Residential, 15-18 dwelling units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site because the proposed single-family residential use of 48 new homes is permitted. In addition, the proposed project implements the following General Plan Goals:

Housing Goal 1: Conservation and enhancement of existing residential neighborhoods.

Housing Goal 2: High quality and well-designed new housing of all types throughout the city.

Analysis: The project's site design, building scale, and orientation appropriately integrate with the surrounding residential use and neighborhood character. The design of the site and structure massing, height, and setbacks, are reviewed for consistency with the general development standards and policies of the R-3, Multi-family Residence District. The R-3 District standards provide general provisions but also permit consideration of variations through site plan and architectural review and approval when the basic intent can be achieved. Staff finds that the architectural modifications proposed are in keeping with the two identified goals of enhancing the existing neighborhood with a high quality, well-designed single-family development.

Fremont Municipal Code Conformance (Zoning):

Parking:

The project provides 120 parking spaces in compliance with the minimum parking standard required of 96 parking spaces. Pursuant to Section 8-22003 of the FMC [Required parking spaces by type of use.], the 96 parking space minimum is calculated based on the proposed land use, as follows:

Function	Parking Ratio/Standard	Units/Square Feet (SF)	Required Spaces
2 or More Bedroom Units	1.5 per unit plus 0.5 for guest	48	96
Total Required Parking:			96 spaces
Proposed Parking:			120 spaces¹

¹ A total of 89 covered (i.e., garage space under unit) and 7 uncovered spaces (for duet Plan 4) are proposed for occupant parking; and, a total of 24 uncovered spaces are designated for guest parking.

Inclusionary Housing:

The development must meet the City's Inclusionary Housing requirements through the inclusion of at least 15 percent of all residential units (in this case 7 units of the 48 units in the project) as Below Market Rate (BMR) units as administered by the Office of Housing and Redevelopment (Condition A-5).

Design Analysis:

Site Planning:

Overall, the proposed project meets the intent of the R-3 Multi-Family Zoning District in terms of providing a well planned, suitable environment for residential development at a medium density (11-15 units per acre) and promoting a land use that can integrate in well with the intensity of existing development. A vehicular and circulation hierarchy is proposed with a minor residential loop street connected to motor-courts (alleys) and pedestrian paseos. Finally, private open spaces in the form of balconies and patios are proposed in addition to the three large clusters of common open space.

The applicant has already responded to several of staff's previous recommendations, such as creating a larger common open space area in a more appropriate and attractive location (initially the open space area was located at the far southwest corner adjacent to the soundwall and I-680) and including additional enhancements to the landscape plan to increase privacy for units facing the common open space area. Landscaped bulb-outs are proposed at motor-court entrances to further soften the court's appearance. Staff finds that these incorporated improvements to the site design are appropriate, given the circumstances and condition of the site (e.g., fault trace seismic setback, slope condition at 15%, emergency vehicle access design, among others).

Architecture:

The identified architectural styles are a mixture of Spanish, Monterey and Cottage designs. These designs incorporate stucco, board and batten and lap siding as major cladding and include architectural elements such as wood corbels, exposed rafter tails, wood shutters, wrought iron railing, wood brackets, among other elements, for added interest and detail. The roofs are designed as mainly flat or s-shaped (for Spanish style) concrete tiles in low-profile hip and gable forms.

The architectural modifications described above are similar to modifications approved and constructed at the applicant's other project known as Hummingbird (Tract 7862) at the west corner of Blacow Road and Fremont Boulevard. The applicant will continue to work with staff on recessing the third floors, limiting third floor window areas, and/or precluding outdoor balconies directly facing these adjacent properties (Condition D-7). For this precise plan, staff finds that the modifications are in keeping with the original architectural approval for this development and will continue to work with the applicant on refinements to the plans (Condition D-7).

Other Analysis:

Open Space/Landscape Design:

The open space for this project is proposed primarily within the easterly third of the site area. A significant portion (approximately nine feet) of the grade differential on the site is accommodated across the width of this open space. A central semi-circular passive open space is carved out by the driveways and will be a prominent entry feature embellished with low stone walls, benches and a lawn, providing a welcome setback and buffer to the housing development.

The active open space with play equipment is located to the south-east of the open space. One of the two existing California Pepper trees is proposed to be relocated adjacent to the play area. The north-west end of the open space is reserved for emergency vehicular access. A landscaped paseo serves as the entry into units 35 through 44 of the proposed development. Residual triangular open spaces outline the

development and are proposed to be landscaped informally. Finally, a triangular open space at the lowest corner of the site has been identified to house bio-swales for stormwater treatment. Adequate space to plant trees is proposed for the development. Apart from the common open spaces, each unit is also provided with the appropriate private open space.

Circulation:

The project includes frontage on Durham Road. Durham Road is classified as a four-lane arterial in the General Plan. The developer shall dedicate a minimum right-of-way width of forty-two feet from centerline. Additional right-of-way for back-up landscaping shall be provided. Since no street improvements exist, the developer is required to install street improvements in accordance with the Subdivision Ordinance and the Street Rights-of-way and Improvement Ordinance.

Grading & Drainage:

The site is currently improved with one main building, associated parking lot, drive aisles, landscaping, and utilities. The buildings, pavement, utilities, and landscaping will be demolished to accommodate the proposed residential project. The existing topography of the site slopes down from Durham Road to the south with a vertical elevation difference of approximately twenty-nine feet. The project engineer estimates total grading (cut plus fill plus import) to be 16,218 cubic yards. The proposed grading will provide building pads to drain runoff to the southwestern portion of the site, where the connection to an existing storm drain system is proposed.

The onsite storm drain system is designed to maintain the peak flows during the 10-year and 100-year storm events due to flood control issues. The project design includes oversized pipes to provide onsite storage and limits peak flows.

Easements:

The project site contains several existing easements, which are for roadway and utility purpose. The applicant is proposing to realign existing easements and vacate easements. The applicant has worked with staff and the utility agencies to make sure the proposed utility relocations and easement vacations can be accomplished, subject to future review, approval, permitting, and acceptance by the City or utility agency.

Urban Runoff Clean Water Program:

The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in stormwater runoff and into the public storm drain system. This project is required to comply with the NPDES permit by incorporating treatment measures into the project design.

Utility Districts:

The tentative map plan submittal includes a preliminary utility plan and joint trench plans, for informational purposes, which shows the proposed location of utility mains (water, sewer, storm), fire hydrants, meters, clean outs, and joint trench (electric, gas, communications). The Planned District landscape plan has been prepared with respect to the utility plan, such that trees and other landscape improvements are kept clear of utilities, as required by the respective agencies. The subdivision improvement plans are subject to review, approval, and permitting by the utility agencies, prior to final map approval.

Vesting Tentative Tract Map 8040:

A tentative map may be approved if (1) it conforms to the General Plan, (2) the lots to be created conform to the Zoning Code, and (3) none of the disqualifying factors set forth in FMC 8-1418 exist. The disqualifying factors in Section 8-1418 are:

- (1) The map fails to meet or perform one or more requirements or conditions imposed by the map act or this chapter.
- (2) The proposed subdivision, together with the provisions for its design and improvement, is not consistent with applicable general and specific plans.
- (3) The site is not physically suitable for the type or proposed density of development.
- (4) The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (5) The design of the subdivision or the type or improvements is likely to cause serious public health problems.
- (6) The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the commission may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This paragraph shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

As set forth in the General Plan conformance discussion above, staff believe the proposed project, including proposed VTTM 8040, conforms to the General Plan. Staff also believes, based on the following analysis, that the lots to be created by VTTM 8040 conform to the Zoning Code and that none of the disqualifying factors set forth in FMC Section 8-1814 are present.

Under FMC Section 8-1515, Lot Standards, the proposed Vesting Tentative Tract Map 8040 must meet the following principals and standards:

- (1) The minimum area and dimensions of all lots shall conform to the requirements of the zoning ordinance for the district in which the subdivision is located.**

Analysis: With the adoption by ordinance of the major amendment, minimum lot area and dimensions for all lots within the precise plan shall be established. The lot area ranges from 729 square feet (i.e., smaller portion of duet/Plan 4) to 6,226 square feet (largest lot next to common open space near entrance to development), with an average lot size of just under 1,600 square feet. Staff finds that the proposed subdivision of non-conventional residential lots that retains common lots for circulation and open space, as well as pedestrian access/use easements, is appropriate for the precise plan.

- (2) **The side lines of all lots, so far as possible, shall be at right angles to the street which the lot faces, or approximately radial to the center of curvature, if such street is curved. Side lines of lots shall be approximately radial to the center of curvature of a cul-de-sac on which the lot faces.**

Analysis: The side lines of all the residential lots, to the extent practicable, are at right angles to the private street as shown in VTTM 8040 (enclosed Exhibit “C”).

- (3) **No lot shall have a street frontage less than thirty-five feet, except for nonconventional residential lots, subject to approval by the reviewing agency**

Analysis: While the proposed non-conventional lots have a private street frontage of less than thirty-five feet, the precise plan of the Planned District is designed to provide adequate vehicular and pedestrian access to each proposed lot via a minor residential loop street connecting to motorcourts and pedestrian paseos/walkways, respectively.

- (4) **No lot shall have a width less than forty-five feet at the building setback line, except for non-conventional residential lots, subject to approval by the reviewing agency.**

Analysis: The proposed non-conventional residential lot width at building setback line for the project provide for sufficient area to contain each home’s building footprint in accordance with the precise plan.

- (5) **Corner lots for residential use shall be platted a minimum of ten feet wider than interior lots in order to permit conformance with the required street side yard requirements of the zoning ordinance.**

Analysis: The precise plan requires a larger bulb-out landscape planter adjacent to corner lots in lieu of the otherwise required wider lot width. Staff finds that this as an acceptable alternative for the proposed non-conventional lots.

- (6) **No lot shall have a depth of less than one hundred feet, except for non-conventional residential lots, subject to approval by the reviewing agency.**

Analysis: The proposed non-conventional residential depth of each lot within the project provides for sufficient area to contain each home’s building footprint in accordance with the precise plan. Any easements required to provide pedestrian access or use affecting each lot would be recorded with the final map approval.

- (7) **No lot shall be divided by a city boundary line.**

Analysis: Not applicable. The project site is located entirely within the City boundary line and all utilities have been annexed to provide services.

- (8) **A lot depth in excess of twice the width shall be avoided whenever possible, except for non-conventional residential lots, which shall generally not have a lot depth in excess of three times the width.**

Analysis: The proposed lot depth for each proposed non-conventional lot does exceed twice the length of its respective lot width.

- (9) **No remnants of property shall be left in the subdivision which do not conform to lot requirements, and are not required for a private or public utility purpose.**

Analysis: Implementation of the precise plan would consume the entire 3.83-acre project site, resulting in no land residuals or remnants of the property.

- (10) **No “flag lot” shall have a street frontage less than twenty feet.**

Analysis: Not applicable. No flag lots are proposed within the project.

Staff’s recommended findings based on the above analysis are contained in Exhibit “C” enclosed.

Planned District Major Amendment to P-2006-274:

As previously discussed, the proposed change from condominium project to single family homes requires a change in the current tentative map for the project. Because the tentative map is part of the P-District precise plan, a major amendment to the current precise plan for P-2006-274 is required to incorporate the new tentative map. The building architecture changes and updated conditions are also incorporated in the amendment to the precise plan.

Under FMC Section 8-21814, a major amendment to a planned district must comply with standards in FMC Section 8-21811 for the establishment of a Planned District. In addition, the approving body must make the following findings under FMC Section 8-21813.

1. The proposed P district, or a given unit thereof, can be substantially completed within four years of the establishment of the P district;
2. Each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;
3. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the P district;
4. Any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the planning commission and the city council;

5. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;
6. The P district (as amended) is in conformance with the general plan of the City of Fremont; and
7. Existing or proposed utility services are adequate for the population densities proposed.

Except for architectural modifications analyzed above, because the number of dwellings (48), siting of homes, and location of common improvements remain unchanged, staff finds that the major amendment is consistent with the previous March 2008 Planned District approval. Based on this, and the zoning, design, and other analysis above, staff finds the proposed major amendment conforms to the requirements in Section 8-21811 and that the findings required by Section 8-21813 can be made. Recommended findings are contained in Exhibit “C” enclosed.

City Fees:

This project will be subject to citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact. Impact fee credits would be provided for qualifying structures proposed for demolition. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance. The applicant may elect to defer payment in accordance with the City’s Impact Fee Deferral Program.

FISCAL IMPACT: None. Development of the proposed project would not result in a direct fiscal impact. The applicant would be required to pay for applicable building permit and development impact fees.

ENVIRONMENTAL REVIEW: The City previously prepared and circulated an Initial Study (IS), Mitigated Negative Declaration (MND), and Mitigation Monitoring Program (MMP). The MND and MMP were adopted for development of a 48-unit residential project on the site. The environmental analysis identified concerns regarding potential impacts to air quality, geology/soils, hydrology, and noise. The approved Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. The mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impact is provided within the Initial Study for the project, which along with the adopted Mitigated Negative Declaration is included as an enclosure (Informational “3”).

Because the proposed project does not result in any intensification of the residential use analyzed by the MND, and that the project site and surrounding area’s environmental characteristics remain unchanged, no new impacts are identified that would cause preparation of additional environmental review.

ENCLOSURES:

- [Draft Ordinance](#)
- [Exhibit “A” to PLN2010-00161 Architectural Building Plans for Amended Precise Plan](#)
- [Exhibit “B” to PLN2010-00161 Vesting Tentative Tract Map 8040](#)
- [Exhibit “C” to PLN2010-00161 Findings and Conditions of Approval](#)

Informational Items: [1. Applicant’s March 2010 Purpose Statement](#)
[2. March 2008 Precise Planned District P-2006-274 Approvals](#)
[3. March 2008 Mitigated Negative Declaration & Mitigation Monitoring Program](#)

RECOMMENDATION:

1. Hold a public hearing.
2. Find that the previously approved Mitigated Negative Declaration and Mitigation Monitoring Program (Informational 3) completed in compliance with the requirements of the California Environmental Quality Act (CEQA) are adequate for this project and that it reflects the independent judgment of the City.
3. Find that the proposed project is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing Chapter as enumerated within the staff report.
4. Find that the proposed subdivision as shown in Exhibit “B” to PLN2010-00161, Vesting Tentative Tract Map 8040, is consistent with the goals, policies and objectives of the City of Fremont’s General Plan. Government Code Section 66474 provides that a tentative map application must be denied if certain specified findings are made. None of those findings can be made in this instance as set forth in Exhibit “C” to PLN2010-00161.
5. Waive full reading and introduce an ordinance amending the Precise Plan for P-2006-274.
6. Direct staff to prepare and the City Clerk publish a summary of the ordinance.
7. Approve the proposed project as shown on the Exhibit “A” and Exhibit “B” to PLN2010-00161, based upon the Findings and Conditions of Approval set forth in Exhibit “C” to PLN2010-00161.

***2.5 ADOPT GUIDING PRINCIPLES FOR FUTURE DEVELOPMENT OF THE WARM SPRINGS/SOUTH FREMONT AREA**

Consider and Adopt a Resolution Establishing Guiding Principles for Future Development of the Warm Springs/South Fremont Area

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Executive Summary: On April 27, 2010, the City Council provided input on a draft set of Guiding Principles for the Warm Springs/South Fremont area. While the Guiding Principles articulate the Council's vision and provide additional input to help guide the area's future development, the Principles are not intended to pre-determine the outcome of the anticipated set of market, feasibility, land use, and infrastructure capacity studies and analyses.

BACKGROUND: On March 4, 2010, staff provided the City Council with the attached summary of previous City Council-adopted policy directions for the Warm Springs Area. While these policies address a wide range of issues related to future land use primarily within a half-mile radius around the future Warm Springs BART Station, the policies were developed and adopted prior to the closure of the NUMMI manufacturing plant. The closure of NUMMI has created an opportunity for the community and City Council to reassess its goals and understanding of the area. These goals may now be expanded to address land use from the perspective of job creation and retention, as well as considering the future of a much larger area encompassing over 850 acres with the inclusion of the NUMMI lands immediately west of the future BART Station.

DISCUSSION/ANALYSIS: The Warm Springs/South Fremont area is over 850 acres and is reflected in three maps associated with the Priority Development Area, the Draft General Plan study area, and the EDA grant-funded studies for the reuse and revitalization of the NUMMI area. Currently, these maps have slightly different boundaries but as the Draft General Plan evolves, staff expects the boundaries of these areas will merge into a slightly larger area that not only encompasses NUMMI and BART lands, but potentially may include property along both sides of Warren Avenue, the area freeway interchanges, and nearly all land between the I-680 and I-880 freeways.

The area is generally characterized by the following existing conditions:

- A 5.5 million square foot NUMMI facility which ceased its operations on April 1, 2010. NUMMI lands, at 370 acres, comprise the largest component of the Warm Springs/South Fremont Plan.
- The future site of the Warm Springs BART Station at the southwest corner of Grimmer Boulevard/Warm Springs Boulevard. BART and the City of Fremont have partnered to make a significant investment in the construction of the tracks from the Fremont BART Station south.

The BART tracks north of the site are currently under construction, with the Station expected to be complete by 2014/15.

- The area around the NUMMI site is a mix of land uses, with business parks, research and development facilities, light industrial, manufacturing, office, retail, restaurants, with about 5 million square feet of vacant or underutilized structures and 191 acres of vacant lands.
- Key transportation facilities in the area include I-880 to the west, I-680 to the east, Mission Boulevard to the south, and the presence of UPRR rail lines along the east boundary of NUMMI.

As noted above, Warm Springs/South Fremont area is strategically located with convenient Interstate freeway access, rail access, and public transit (via the future Warm Springs BART Station and bus services). The NUMMI facility and surrounding area lands present an unparalleled opportunity for economic development and creation of new jobs in the Bay Area. The City seeks to support this opportunity by helping to guide future land use to achieve both short- and long-term visions for Fremont.

The Guiding Principles below are based on past City Council policy actions, draft General Plan policies, and City Council feedback on April 27, 2010. These principles may be refined further in the future to incorporate the results of the four EDA grant-funded NUMMI studies. These studies will begin this summer and will provide significant opportunities for community input through a Community Preferences Survey and several workshops and public meetings. The Guiding Principles may also be influenced by follow-up work in completing the Warm Springs/South Fremont Plan.

Following are the proposed Guiding Principles for the Warm Springs/South Fremont area, with the most recent Council revisions highlighted below:

1. The City shall actively pursue opportunities which create a high number of high-paying jobs, including **green** technology, manufacturing and professional jobs.
2. Recognizing the large scale of the area, over 850 acres, and the specific opportunities around the future Warm Springs BART Station, the area will have different intensities and densities based on its proximity to transit. **A variety of high density uses, which may include housing, high intensity commercial and employment centers,** would be located within one-half mile of the Warm Springs BART Station, and could transition to include a broader range of commercial, industrial and community-serving uses beyond the one-half mile distance from BART.
3. The siting, design and implementation of development in this area should a) promote a high-quality, environmentally sustainable mix of appropriate uses that create a strong and positive sense of place, and b) **foster a synergistic relationship amongst uses in the area and the surrounding neighborhoods.**
4. The area should incorporate sustainable design, including **the reuse of existing structures where appropriate,** passive stormwater retention and filtration systems, green buildings, walkable and mixed use communities, and energy efficient systems.

5. The area generally within one-half mile of the BART station should be designed as an active and vibrant urban center with integrated mixed-use communities that includes opportunities to live, work, and shop, supported by schools and public facilities located within convenient walking distance of BART.
6. Incorporate the use of pedestrian and bicycle paths into all site plans to provide for walkable neighborhoods and ease of non-vehicular travel, including use of safe and convenient connections **to BART, the Pacific Commons retail center, and other** key resident and employee destinations.
7. Include areas of open space at selected locations, particularly in areas with higher density uses and employment centers, such as small parks, public gathering locations and seating areas, and civic spaces.
8. Incorporate use of buffers (landscaping, building setbacks and orientations, walkways and streets, or similar and appropriately-designed features) to help provide separation between residential/mixed-use developments and manufacturing, industrial, research and development, and other employment generating uses to maintain the viability of the respective uses.
9. Ensure opportunities for the City Council, Commissions, community and stakeholders to provide review and input throughout the planning process for the Warm Springs/South Fremont area.
10. To encourage desirable development in a timely manner, the City **and/or Redevelopment Agency** should **pursue additional planning and job development grants** and seek opportunities to establish funding mechanisms for construction of public infrastructure necessary to spur private development **without using the City's General Funds, unless otherwise specifically approved by Council.**
11. **Strategically create an area responsive to market changes over time by developing short, mid, and long-term development alternatives.**
12. Consider a land use and development plan that as a whole can be financially feasible/market based, **and contribute to the City's employment, tax base and overall quality of life.**

FISCAL IMPACT: Adoption of these Guiding Principles has no fiscal impact upon the City.

ENVIRONMENTAL REVIEW: There is no project related to the establishment of these Guiding Principles, and no action is required under the provisions of the California Environmental Quality Act (CEQA).

ENCLOSURES:

- [Map of the Warm Springs/South Fremont Study Area](#)
- [March 4, 2010 Memorandum "Policy Statements Regarding Warm Springs Area"](#)

RECOMMENDATION: Consider and Adopt a Resolution Establishing Guiding Principles for Future Development of the Warm Springs/South Fremont Area.

6.1 Report Out from Closed Session of Any Final Action

7.1 PROPOSED NEW ALAMEDA COUNTY TRANSPORTATION COMMISSION (ACTC) JOINT POWERS AGREEMENT

Adopt a Resolution Approving the Joint Powers Authority creating the Alameda County Transportation Commission (ACTC) by Merging the Alameda County Congestion Management Agency (ACCMA) and Alameda County Transportation Improvement Authority (ACTIA); and Approving an Amendment to the Existing Joint Powers Agreement for the Alameda County Congestion Management Agency (CMA)

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Executive Summary: The Alameda County Transportation Improvement Authority (ACTIA) and the Alameda County Congestion Management Agency (CMA) have embarked on a number of new initiatives to more cost effectively plan and deliver transportation programs and increase transportation funding in Alameda County. At the April 6, 2010 City Council meeting, staff from ACTIA and the CMA presented these issues to the City Council for information and questions and input to the process. The City Council provided comments to ACTIA and the CMA staffs on the proposed merger of ACTIA and CMA, the CMA's effort to place a Vehicle Registration Fee on the November 2, 2010 ballot, and ACTIA and the CMA's effort to develop a new Countywide Transportation Plan and an extension of the existing half-cent transportation sales tax measure. Staff from ACTIA and the CMA informed the City Council that they will come back on May 4 to seek City Council's approval of the proposed merger of ACTIA and the CMA.

This report addresses the proposal to merge the two agencies into a new agency called the Alameda County Transportation Commission (ACTC). While both organizations have functioned well as separate agencies, the respective Boards believe that the proposed new Joint Powers Agreement (JPA) will provide a more efficient and cost-effective structure over the long term for the residents of Alameda County upon which to plan and deliver transportation programs and capital projects. Staff recommends adoption of a resolution approving the Joint Powers Agreement creating the new Alameda County Transportation Commission, and approval of an Amendment to the existing JPA for the Alameda County Congestion Management Agency (CMA)

BACKGROUND: In January 2009, the Alameda County Transportation Improvement Authority (ACTIA) and the Alameda County Congestion Management Agency (CMA) initiated a study to identify service sharing and/or consolidation opportunities between the two agencies. The study examined whether mission critical responsibilities could be delivered in a more streamlined and cost effective manner if the two agencies operated on a more integrated basis. Another project objective was to determine if there was sufficient information to allow policy makers to make a decision about whether to move forward with an implementation analysis and develop a plan for a possible integration and potential consolidation. In May 2009, a presentation was made to the ACTIA and CMA Boards of Directors during a joint meeting which described the opportunities for service sharing and potential

merger of operations, opportunities for cost efficiencies and estimated annual savings. The presentation pointed out that the ten-year return on investment was very good, with up-front costs being relatively minor considering the long term goals and benefits. The joint meeting also discussed the potential for blending the respective Boards of Directors into one Board. The initial analysis was compelling enough for the Boards to move forward with an implementation analysis and plan. A final report delivered to both agencies in July 2009 concluded that there were, in fact, attractive opportunities for a range of service sharing and integration efforts. The greatest opportunities for consolidation and efficiency improvement were in the areas of financial services, administrative services and capital project delivery. The Merger Implementation Plan was completed in January 2010 and accepted by the joint Boards of Directors at their January meeting. As a result of the two separate studies, both Boards of Directors, at a joint meeting in January 2010, expressed support for a proposed merger of the two agencies and directed staff to bring back, at a joint meeting in February, the necessary actions to form a new Joint Powers Authority (JPA) which would generally have the powers of a congestion management agency and of ACTIA. The Boards further agreed on a new structure for a combined Board of Directors (see below) and expressed support for the title of Alameda County Transportation Commission (ACTC) as the name of the new proposed JPA. In February 2010, the joint Boards approved a draft Joint Powers Agreement and directed staff to present it to the Board of Supervisors, the City Councils of all 14 cities in the County, and the Boards of AC Transit and BART.

DISCUSSION/ANALYSIS: ACTIA and the CMA staffs are now seeking approval of the new Joint Powers Agreement (JPA) and the necessary parallel changes to the existing CMA Joint Powers Agreement. After the approval of the new JPA, the ACTIA Board will take steps to amend the 2000 Transportation Expenditure Plan, and after a 45-day review period, will change the composition of the ACTIA Board so that it is the same as that of the proposed new commission (ACTC). Steps will also be taken to terminate ACTIA and transfer the Agency's assets and liabilities to ACTC. Neither of the latter two steps requires individual action by member agencies. The goal is to achieve all the necessary approvals by July, with the new commission launching in September of this year.

Proposed New JPA (Alameda County Transportation Commission) Board Composition: An Ad Hoc Committee of the joint Boards of Directors considered several different scenarios for composition of the new Board, including both membership and allocation of votes. Councilmember Wieckowski is a member of the Ad Hoc Committee. A guiding principle was that all the cities and the County needed to be represented on the new Board, along with some representation from the transit operators. Votes based on populations, which change over time, following the CMA model were considered. Ultimately the Committee recommended, and the joint Boards of Directors approved, a simple approach that recognizes the interests of the largest (by population) cities and includes both AC Transit and BART. The proposed new JPA Board (and the separate Boards of ACTIA and CMA) would be composed of the following 22 members representing 27 votes:

- Five Alameda County Board of Supervisors members (six votes total);
- Two members representing the City of Oakland (four votes total);
- One member representing the City of Fremont and one representing the City of Hayward (two votes each);
- One member from each of the other 11 cities (one vote each);
- One representative of BART and one representative of AC Transit (one vote each).

Only members of the bodies who have paid or allocated fees set by the ACTC Board shall be entitled to be members of the ACTC Board. If the relative populations of the cities or the unincorporated areas change significantly in the future, the Joint Powers Agreement could be amended to adjust this voting allocation. ACTIA and the CMA would continue in existence and would be members of the new JPA until such time as state legislation specifically naming those agencies can be amended, but they would not have separate representation on the new Board. Staff recommends adoption of a resolution approving the Joint Powers Agreement creating the new Alameda County Transportation Commission, and approval of an Amendment to the existing JPA for the Alameda County Congestion Management Agency (CMA)

Technical Advisory Committee and the Citizens' Watchdog Committee: The proposed JPA designates the current Alameda County Transportation Advisory Committee (ACTAC) to continue to function as the technical advisory committee to the new ACTC. Additionally, the proposed JPA appoints the current Citizens' Watchdog Committee as described in the Alameda County 2000 Transportation Expenditure Plan which will continue to have the powers as specified in that Plan regarding the expenditure of ACTIA funds. While not mentioned in the JPA, the other outside committees of each Agency would continue for the present; however, there may be some consolidation of the existing standing committees of each agency.

Schedule: The Merger Implementation Plan proposed the following major milestones to implement the merger.

MAJOR MERGER ACTION PLAN MILESTONES

Event	Target Date
Approval by Boards to proceed with a merged agency and new JPA	January 28, 2010
JPA structure developed and approved by respective Boards	February 25, 2010
JPA approval by member agencies and Boards of Directors	July 31, 2010
New JPA operations begins	September 1, 2010
Employees transition to new JPA	January-March, 2011
Single accounting system begins	July 1, 2011
Complete integration of operations	January 2012
Consolidation of office space	November 2014

FISCAL IMPACT: None

ENCLOSURES:

- [Enclosure A - Proposed Joint Powers Agreement for Alameda County Transportation Commission](#)
- [Enclosure B - Amendment of Section 10.a of the CMA Agreement](#)
- [Enclosure C - Resolution 10-xx : Creation of Alameda County Transportation Commission and Approval of Joint Powers Agreement therefor; Approval of Amendment to Joint Powers Agreement for Alameda County Congestion Management Agency](#)

RECOMMENDATION: Adopt a Resolution approving the Joint Powers Agreement creating the Alameda County Transportation Commission (ACTC) and approving an amendment to Section 10.a of the existing Joint Powers Agreement for the Alameda County Congestion Management Agency (ACCMA), and authorize the Mayor or City Manager to execute the necessary agreements.

7.2 REGULATION AND MAINTENANCE OF SIDEWALKS AND STREET TREES

Consider Introduction of an Ordinance Adopting Regulations Pertaining to the Planting, Pruning, and Removal of Street Trees and Landowner Responsibility and Liability for Street Tree and Sidewalk Safety and Maintenance

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Executive Summary: Many years ago, the City committed itself to maintain street trees and repair the damage caused by street trees to residential sidewalks as a service to the adjoining property owner, and allocated resources for that purpose. Cuts to the City's budget over the past several years, however, have resulted in the elimination of the City crews that performed routine maintenance of street trees and reduced funding to the residential concrete repair program. There appears to be little prospect that these funds can be restored in the future with the current budget outlook and budget priorities.

Because the City no longer has the fiscal resources to continue to provide routine maintenance of street trees, this responsibility must be returned to the adjoining property owners in order to ensure that street trees are maintained in a safe condition. In addition, because the City's ability to provide timely sidewalk repair and replacement service has been greatly inhibited, adjoining property owners should be given the responsibility for maintaining their sidewalks in a safe condition. The City will continue to perform emergency tree pruning to abate hazardous conditions creating an imminent threat of injury, and will continue to provide concrete grind and patch services as well as concrete replacement services for single family residential properties as budget allows.

The proposed ordinance would implement this change by (1) revising the current Street Tree Ordinance to provide standards and a permitting process for planting, pruning, maintenance and removal of street trees, (2) clarifying and expanding the obligation of the adjoining property owner to maintain their sidewalk area including the street trees, (3) establishing that adjoining property owners owe a legal duty to the public to maintain the sidewalk area in a safe condition, (4) rescinding the existing City Council resolutions containing the City's commitment to maintain street trees and residential sidewalks, and (5) making conforming amendments to interrelated portions of the code – e.g. Tree Preservation Ordinance, Encroachment Ordinance, and Subdivision Ordinance.

BACKGROUND

Historically, property owners are by State statute responsible for maintaining the sidewalk area, including the trees, fronting their property from the lip of the gutter to the back of the right-of-way easement. The obligation dates back to the Improvement Act of 1911 and is codified in Streets and Highways Code Section 5610, which provides as follows:

The owners of lots or portions of lots fronting on any portion of a public street or place when that street or place is improved or if and when the area between the property line of the adjacent

property and the street line is maintained as a park or parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience in the use of those works or areas save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him by law or by the city authorities in charge thereof, and such persons shall be under a like duty in relation thereto.

“Sidewalk” is defined by Streets and Highways Code Section 5600 to include “a park or parking strip maintained in the area between the property line and the street line . . .” The courts have held that the obligation to maintain the sidewalk area includes the trees.

This obligation under Streets and Highways Code Section 5610 is a financial obligation owed only to the city, meaning that if the property owner fails to maintain the sidewalk area, the city can perform the work and proceed to collect the cost from the property owner. Because the obligation is owed only to the city, a property owner would not be liable under the statute for injuries caused by the property owner’s failure to maintain the sidewalk area. Cities can however, adopt ordinances that extend the property owner’s obligation to the public and make the property owner liable to the public for injuries caused by the property owner’s failure to maintain the sidewalk area. A city’s ability to adopt such an ordinance was confirmed by the California Court of Appeal in *Gonzales v. City of San Jose* (2004)125 Cal.App.4th 1127.

The City of Fremont’s policy has been, however, to provide sidewalk area maintenance service to adjoining residential property owners free of charge. Under the policy known as the “Sidewalk and Concrete Repair Policy”, the City took responsibility for pruning trees within the right-of-way easement that were either required to be planted by developers (“official street trees”) or that were accepted by the City as to variety, size and location (“non-official trees”), and for repairing concrete damage caused by these trees. The adjoining property owner remained responsible for pruning all other trees, including trees planted outside of the right-of-way but that overhang the right-of-way, and for repairing concrete damaged by a cause other than a tree maintained by the city. The property owners also remained responsible for the cost of repairing sewer lines and water lines damaged by street trees. The Policy thus divided responsibility between the City and the adjoining residential property owner for eliminating unsafe conditions in residential sidewalk areas, such as damage to the curb and gutter, the park strip (between curb and sidewalk), driveway approach, and sidewalk. To implement the policy, the City added pruning and maintenance crews to perform the work and allocated funds in the Capital Improvement Program (CIP) budget for residential sidewalk concrete replacement.

In FY 09/10, five full time positions were eliminated from the City’s Urban Forestry Section. These positions made up the City’s Program Pruning Crew. With the elimination of these positions staff is now only able to be reactive to the City’s urban forest. With the current staffing level, it is impracticable to perform routine pruning of the more than 46,000 residential street trees. Before the elimination of the Program Pruning Crew, the City was on a 15-20 year pruning cycle. This less-than-desirable pruning cycle led to distressed, damaged, and dangerous trees that staff had to address on priority basis in order to protect the public safety, and thereby limiting staff’s ability to systematically perform program pruning work. The industry standard for street tree pruning is every four years or sooner, if necessary. With the current staffing level the City is now only able to respond to safety and emergency work, as

notified by the residents. Safety and emergency work includes issues such as trees that pose an immediate hazard, trees that are dead, dying or pest infested to the point that no amount of treatment will allow them to recover, downed limbs in the public right-of-ways, and traffic sign and streetlight obstruction issues.

The City's Sidewalk Trip Hazard Repair Program provides grinding and asphalt patching to residential and commercial property sidewalks as a short-term fix to uneven sidewalks. Grinding and asphalt patching work is done when residents notify the City of trip hazards or when City staff identifies trip hazards during the course of their daily work. The program experienced a substantial reduction in service level when budget reductions forced the elimination of two street maintenance positions that assisted with this work. Before this staffing reduction, the Sidewalk Trip Hazard Repair Program had a response time of one to two months upon notification of a trip hazard. Since the staffing reduction, the response time has increased to six to eight months.

Sidewalk trip hazards are also addressed with CIP funds that are allocated annually to the Citywide Concrete Repair Program. The Citywide Concrete Repair Program provides for the reconstruction of curbs, gutters, sidewalks, driveway approaches and the installation of handicap ramps where sidewalk replacement is required at two or more quadrants of an intersection. Each year, the City's Engineering staff identifies areas of the City to address with this funding. With current resources, the Citywide Concrete Repair Program is on a 20-30 year cycle to complete repairs throughout the City's residential neighborhoods. Currently, the City does not have a program that addresses non-residential areas.

DISCUSSION/ANALYSIS: The City's financial inability to continue maintaining street trees and sidewalk concrete as envisioned by the Sidewalk and Concrete Repair Policy has put the structural and aesthetic integrity of street trees and the safety of sidewalks in jeopardy unless an alternative means of maintenance is put in place. This need led staff to propose the formal elimination and replacement of the Policy with regulations requiring adjoining property owners to assume responsibility and liability to ensure that sidewalk areas including the street trees are maintained in a safe condition, as is consistent with state law. The proposed ordinance would implement these changes by repealing the Policy and adopting regulations and standards for adjoining property owners to maintain the street trees and sidewalk area. A discussion of the proposed regulations and standards follows.

The proposed ordinance provides that the owner of a lot with frontage along a public street must maintain the street trees and other landscaping growing along the frontage or in the street right-of-way adjacent to the lot, including in any park or parking strip between the property line and the street line. The proposed ordinance further provides that an owner owes a duty to members of the public to maintain street trees and other landscaping along the street frontage or in the street right-of-way adjacent to the owner's property in a safe and non-dangerous condition. This maintenance obligation includes, but is not limited to, ensuring the passage of light from any public street light to the street; ensuring a clear height of ten feet above the surface of the street or sidewalk unobstructed by branches; deep root watering, root pruning, installing root barriers, fertilizing and pest control; and clearance, structural, and safety pruning. The proposed ordinance also provides that if an owner fails to maintain street trees and other landscaping in a safe and non-dangerous condition as required by the ordinance, and a person suffers damage or injury to person or property, the owner is liable to the person for the resulting damages and injuries. The proposed ordinance will thus make the adjoining property owner financially responsible both for sidewalk area maintenance and repairs, and for any damages or injuries caused by

their failure to maintain the sidewalk area. The proposed ordinance does not affect the City's statutory liability for injuries or damage caused by a dangerous condition of a sidewalk area, but would allow the City to seek recovery from the adjoining property owner for claims made against the City caused by the owner's failure to maintain the sidewalk area.

The City will continue to provide sidewalk maintenance and repair services as currently planned under the Sidewalk Trip Hazard Program and the Citywide Concrete Repair Program. However, adoption of the proposed ordinance will allow the City to scale its maintenance services up or down based on available resources. Making the property owner responsible for damages provides an incentive to proactively maintain street trees, sidewalks, and other features in the sidewalk area. The incentive to maintain sidewalk areas will be particularly strong once the property owners learn of the amount of time it could take the City to address sidewalk repair issues.

One of the resolutions associated with the City's Sidewalk and Concrete Repair Policy states that if a residential property owner contributes 50% of the repair costs the City would repair their sidewalk. This is a program that had a number of implementation difficulties and therefore has not been funded over the last several years. As part of staff's recommendation, this resolution would be rescinded and the program eliminated. Should the Council desire to implement and fund this program in the future, a new program could be put in place at that time.

The Street Tree Ordinance currently does not have standards or a permitting process that cover planting, pruning, maintenance and removal of street trees. The proposed revisions therefore include standards and a permitting process. A street tree permit must be acquired before any tree pruning, planting or removal can occur. Staff have prepared a document called "Street Tree Guidelines" that summarizes the permit application process for tree removal, tree planting, tree pruning, and root pruning. This document will be made generally available to the public. In the case of an emergency, a person may obtain permission from the City's Urban Forestry staff for emergency pruning or removal. Any such work, emergency or non-emergency, must be performed by a qualified tree professional. A qualified tree professional is a contractor that is authorized under the Contractors' State License Law to perform tree planting, pruning, or removal work. Currently there is no fee to obtain a street tree permit, and staff is not proposing one at this time. The proposed ordinance does not preclude the City Council from implementing a street tree permit fee in the future, should the City Council so choose.

The proposed ordinance will also prohibit unauthorized removal and damaging of street trees. Damaging a street tree is subject to a fine in the amount of:

1. \$250 for the first offense,
2. \$750 for the second offense, and
3. \$1,000 for the third and subsequent offenses.

A person who knowingly or intentionally injures a street tree is subject to a fine of \$1,000 for each offense. Additionally, if a person removes a street tree without authorization, the person and the adjoining property owner are made jointly and severally liable for replanting and repayment based on the value of the tree removed.

The proposed ordinance allows for appeals of administrative actions as follows:

1. A person wishing to contest the denial of a permit to remove a street tree or the imposition of restitution for the unauthorized removal of a street tree may appeal to the City Council.
2. A person wishing to contest an administrative penalty or an abatement order must do so in accordance with the provisions that govern the procedure for imposing the fine or abatement order.
3. For all other administrative actions not covered above, a person wishing to appeal a staff action must file a written appeal to the City Manager within 10 days of the action. Decisions of the City Manager under this category are final and not appealable to the City Council.

To inform the public of the requirements in the proposed ordinance and also to inform them of assistance offered by the City, the City Manager will maintain Sidewalk and Concrete Repair Guidelines and make them generally available to the public. The Sidewalk and Concrete Repair Guidelines will summarize the repair process for concrete grinding, asphalt patching, and complete removal and replacement of concrete.

The current Street Tree Ordinance provides that the City Council adopt tree planting plans. The City has a Tree Planting Guide titled, “Excerpts from Scenic Highway and Route Element Regarding Landscaping Plans”, which governs the species of trees planted on various major City streets. The Guide was originally approved by the City Council in 1975, and since 1991 has been included as Appendix II of the General Plan. However, the current Tree Planting Guide is outdated, with tree species that are no longer suitable as City street trees due to new disease susceptibility, inherent structural problems, large root systems, or other reasons. The proposed ordinance eliminates obsolete language related to tree planting plans and provides that the City Manager set up a list of recommended street trees until such time that a Tree Master Plan is established. As part of the current General Plan update, staff will propose that as part of the implementation plan of the General Plan, the City Council direct staff to prepare a Tree Master Plan to replace the existing plan.

In addition to revisions to the Street Tree Ordinance, staff is also proposing minor amendments to the Tree Preservation Ordinance, the Encroachment Ordinance, and the Subdivision Ordinance in order to conform these ordinances to the revisions to the Street Tree Ordinance and to established city practices related to street trees.

FISCAL IMPACT: There are no fiscal impacts if the ordinance is adopted as proposed. If the proposed ordinance is not adopted it would be prudent for the City to, at a minimum, restore the Program Pruning service in order to address the maintenance obligation that the City would have with regard to street trees.

ENCLOSURES:

- [Proposed ordinance](#)
- [City of Fremont Street Tree Guidelines](#)
- [City of Fremont Sidewalk and Concrete Repair Guidelines](#)
- [Sidewalk and Concrete Repair Policy, including resolutions 5032, 7414, 8876, and 9591](#)

RECOMMENDATIONS:

1. Introduce the proposed ordinance amendment of the Street Tree Ordinance and conforming amendments to the Tree Preservation Ordinance, the Encroachment Ordinance and the Subdivision Ordinance.
2. Rescind the Sidewalk and Concrete Repair Policy and associated resolutions.

7.3 AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE A CONTRACT FOR AN ON-SITE FLEET PARTS AND INVENTORY PROGRAM

Authorization for the City Manager to Execute a Contract with Genuine Parts Company, Doing Business as Napa Auto Parts, in an Amount not to Exceed \$1,331,844 for a Three-Year Period for an On-Site Fleet Parts and Inventory Program

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Executive Summary: Fleet Maintenance staff identified an opportunity to increase productivity and generate savings by implementing an on-site fleet parts and inventory program. This program will allow a vendor to establish a turn-key on-site fleet parts and inventory operation complete with dedicated staff to procure, manage and distribute parts inventory exclusively for the City. The program will allow fleet staff to focus on its core services of maintenance and repair, and will also allow for the reduction of a costly City-owned fleet parts inventory.

On February 4, 2010, the City received one response to its Request for Proposals (RFP) from the Genuine Parts Company, doing business as Napa Auto Parts. After review of Napa's response to the RFP, staff is recommending that the City Council authorize the City Manager to execute a contract with Napa Auto Parts in an amount not to exceed \$1,331,844 over the three year initial contract term for an on-site fleet parts and inventory program. This total amount includes the annual cost of purchasing parts, Napa management fee and overhead.

Because this is a new undertaking, staff is also requesting authorization for the City Manager to amend the agreement, if needed, to increase the annual amounts by up to 20% to account for year-to-year variances in parts and/or service needs. This contact amendment ability and level is consistent with the provisions of the City's purchasing ordinance.

While the exact program savings cannot be quantified at this time, the City's parts costs should be lower, vehicle down time will be reduced, administrative processes will be streamlined, and overall shop productivity will increase as a result of implementing the proposed parts and inventory management program.

BACKGROUND: The City's Fleet Maintenance section is responsible for the acquisition, maintenance, repair, and disposition of approximately 600 vehicles and pieces of equipment that include fire engines, police vehicles, heavy equipment, and generators. Fleet Maintenance is also responsible for five fuel dispensing facilities throughout the City. The mission of Fleet Maintenance is to provide its customer departments with vehicles and equipment that meet their operational needs and are safe, reliable, and cost effective.

As part of the citywide FY 2009/10 budget reductions, the Fleet Office Specialist II position was eliminated from the Fleet Maintenance section. During that budget process, Fleet Maintenance underwent a critical review of its core services, including an evaluation of how its services are being delivered. This review revealed an opportunity to implement an on-site fleet parts and inventory program, which could help mitigate the impacts of the budget reductions. Staff determined that an on-site fleet parts and inventory program would enhance Fleet Maintenance's efficiency, generate budget savings and yield one-time revenue through the disposition of the existing parts inventory. Fleet Maintenance staff currently oversees all aspects of parts inventory management, from ordering to distribution. While this function is important, it is not Fleet Maintenance's primary line of business, which is maintenance and repair. An on-site fleet parts and inventory provider could perform this function more efficiently and allow City staff resources to be more focused on customer service, maintenance and repair work, thereby increasing productivity and fleet availability so that essential City services can be conducted in a safe and timely manner.

The proposed parts and inventory program uses a single contractor to provide all the parts the City requires for its Fleet Maintenance Program. The contractor also provides an on-site parts distributor who is responsible for maintaining an appropriate inventory. By providing both the parts and the parts distribution, the contractor can provide these goods and services at a lower cost than if the City provided these directly. The primary components and benefits of the program are as follows:

1. Turn-key management of all fleet parts and inventory customized to meet the City's needs.
2. The provision of a dedicated on-site fleet parts professional to facilitate the parts inventory management function.
3. A one-time influx of revenue due to the contractor's purchase of the City's existing inventory of saleable parts.
4. Reduced inventory costs because the contractor will own the inventory and the City only purchases the parts when they are actually issued to a City mechanic.
5. Improved productivity due to the ability to redirect City resources to focus solely on the core services of Fleet Maintenance.

Many public and private organizations utilize on-site fleet parts and inventory management programs to efficiently run their fleet parts programs. Napa has been providing such services since 1991 and now has over 240 locations nationally, many of which are in California. The County of San Diego has had a similar on-site parts and inventory program in place using Napa Auto Parts as its vendor since 1999 with great success. Facing large budget reductions, the City of Sacramento implemented a similar program last year, selecting Napa Auto Parts as its vendor, as well.

On September 1, 2009, the City Council authorized the use of the RFP procurement process for a fleet maintenance parts and services contract. On January 10, 2010, the RFP for the on-site parts and service provider was advertised to the public. Proposals were opened on February 4, 2010. The only proposal received was from the Genuine Parts Company, doing business as Napa Auto Parts. Receiving only one response is not unusual for this scope of services as the desired on-site turn key parts and inventory service is provided by only a few vendors nationally. The Napa proposal was determined to be responsive, responsible and reasonably priced.

DISCUSSION/ANALYSIS: Staff is recommending that Napa Auto Parts provide an on-site fleet parts and inventory program to the City's Maintenance Services Division. Under the program, Napa will supply parts, fluids and shop supplies necessary to maintain, repair and operate the City's fleet of vehicles and equipment. Napa will keep an employee on-site during all City working days and hours to provide comprehensive parts management and procurement services. Napa will also purchase the City's current inventory of parts for an anticipated price of approximately \$150,000 (the final price will be determined following a detailed review of the City's parts inventory). Additionally, if the City chooses to buy parts from other suppliers, Napa will inventory and distribute these parts as well. The City will purchase parts from Napa at the actual cost, plus a markup of 11.13% for parts, and 5.263% for tires purchased under the City's contract with the State. The on-site fleet parts and inventory program will be fully operational within 45 days of the execution of the agreement between the City and Napa.

The primary benefits and cost savings to the City occur in two main areas, staff productivity savings through increased efficiencies, and parts and inventory cost savings. These benefits and savings are summarized below.

Staff Savings: Implementing an on-site fleet parts and inventory program will improve customer service and maintenance operations of the City's fleet maintenance program. Currently, the Automotive Parts and Maintenance Coordinator must perform multiple tasks (e.g., trying to assist customers, handle all parts requests from the mechanics, coordinate special orders, manage inventory control, evaluate, compare and procure all parts, and perform other administrative tasks as appropriate) to ensure that vehicles are repaired in a timely manner and customers are kept informed. When the Parts Coordinator is not there, other staff must backfill this position, resulting in many hours of replacement coverage by other Fleet staff who otherwise would be working on vehicles needing maintenance and/or repair. This decreases the productivity of the fleet operation and increases vehicle down time for vehicles that are essential to the delivery of City services. By implementing the proposed program, Napa will supply a full-time employee to serve on-site during all City work days to meet the demands of its Fleet Maintenance customers. The Napa employee will be required at all times to abide by the City's policies, code of conduct and work rules. When the Napa-designated on-site employee is sick or on vacation Napa is required to provide another employee to be on site to provide parts and inventory management services for the City.

With a Napa employee always on-site to handle the parts management and purchasing, the City's Automotive Parts and Maintenance Coordinator position will be reclassified as an Equipment Services Coordinator. The revised position will now be responsible for coordinating vehicle drop off and pick up with customers, creating and issuing work orders for the mechanics, inputting and managing the computerized vehicle record system, ensuring compliance with all State and federal regulatory requirements, reviewing Napa reports and spot checking pricing to ensure contract compliance and value.

The program will also reduce City overhead and administration costs. The current fleet parts purchases require the processing of purchase orders and subsequent invoices for every part order. Fleet currently maintains numerous open purchase orders for parts, which require payment processing twice each month. The City processes thousands of parts invoices per year because each part purchased generates its own invoice. The proposed parts and inventory program will eliminate most of this process, thereby increasing the speed at which parts can be procured, and vehicles can be repaired and put back in

service. The City will receive only one monthly invoice from Napa for all parts issued to Fleet Maintenance staff. In addition, the City will no longer have to deal with individual vendors on warranty issues for defective parts. Napa will provide replacement parts to Fleet at no additional cost, and take responsibility for dealing with any vendor on warranty issues, thereby reducing administrative work for City staff. Finally, Napa will provide technical training and free technical support to assist staff with efficiently diagnosing component and system failures in City vehicles, saving staff time when unusual and difficult problems are encountered.

Parts Savings: The proposed program will also save the City money on parts. Napa will provide all parts at its actual price plus an 11.13% markup. Napa will receive a markup of 5.263% on tires purchased under the City's current State contract. Even with this markup, prices for many of the parts the City uses will still be substantially lower than the prices the City can get through buying from other retailers. The RFP requested sample pricing for several hundred auto parts currently stocked by the City. Napa's prices for 80% of the parts were determined to be on average 20% less than the City's current price for the same parts.

While Napa parts prices are expected to be lower in general than most other retailers, and Napa offers the convenience and efficiency of using only one vendor, the contract also allows the City to direct Napa to purchase parts, using City of Fremont procurement procedures, from any other vendor when deemed by the City to be in its best interest. In addition, certain commodities will be purchased under State contracts or other purchasing contracts designed specifically for government entities. Parts purchased by the City or by Napa on behalf of the City, from other vendors will be maintained as inventory by Napa, but the City will only pay Napa the markup cost for managing and issuing the parts.

As part of the contract, Napa will purchase all of the City's current saleable parts that have been shelved for less than 18 months. This is estimated to create one-time revenue for the General Fund of approximately \$150,000. The City will then purchase back the parts (at the same cost) as they are needed. The City will only pay for parts when they are issued to mechanics. This ensures that the City is no longer financially responsible for missing or obsolete parts.

While the exact program savings cannot be quantified at this time, parts costs will be lower, vehicle down time will be reduced, administrative processes will be streamlined, and overall shop productivity will increase as a result of implementing the proposed turn-key parts program.

Proposed Contract: The City Council is requested to authorize the City Manager to execute a three-year contract with Napa through June 30, 2013, for a total amount not to exceed \$1,331,844 for the three-year period (\$443,948 per year). This annual amount includes the cost of parts the City would have regularly purchased, plus a management fee to Napa for operational services. The management fee, not to exceed \$63,000 per year, pays for Napa's on-site staff as well as its management of the other contract elements. Staff also requests that the City Council grant the City Manager authority to amend the agreement between Napa and the City to increase the annual contract amount, if necessary, up to 20% per year, assuming sufficient budget appropriation exists, to allow for year to year variances in parts and/or service needs. This authority is consistent with that provided in the City's purchasing ordinance.

Staff is also requesting authority for the City Manager to extend the agreement up to five additional years, through June 30, 2018. The first and second option years will be based on the same annual

compensation structure of the original three-year contract term. If the final three option years are exercised, the contract allows for Napa to request an adjustment to the annual management fee, with all other aspects of the compensation structure remaining the same. Any adjustment to the management fee shall be based on the San Francisco Bay Area Consumer Price Index (CPI) for the given year, but shall not exceed 3% in any year. Changing the parts and inventory program too often would be very disruptive to the City's Fleet Maintenance program. Therefore, a contract of up to eight years, if all option years are exercised, is being proposed. Council is requested to allow the City Manager to amend the contract value of these optional year agreements by up to 20%, assuming budget authority exists, to account for year-to-year variations in parts and service needs of the City.

The total compensation schedule, including all option years, is shown in the table below:

COMPENSATION SCHEDULE	COMPENSATION ADJUSTMENT DATE	% INCREASE IN MGMT. FEE	TOTAL MAXIMUM COMPENSATION*
Initial Three Year Term			
Jul 1, 2010 – Jun 30, 2011	None	0%	\$443,948
Jul 1, 2011 – Jun 30, 2012	None	0%	\$443,948
Jul 1, 2012 – Jun 30, 2013	None	0%	\$443,948
Three Year Compensation			\$1,331,844
Five Optional One Year Extensions, if Extensions Exercised			
Jul 1, 2013 – Jun 30, 2014	None	0%	\$443,948
Jul 1 2014 – Jun 30, 2015	None	0%	\$443,948
Jul 1, 2015 – Jun 30, 2016	July 1, 2015	3% max	\$445,838 max
Jul 1, 2016 – Jun 30, 2017	July 1, 2016	3% max	\$447,785 max
Jul 1, 2017 – Jun 30, 2018	July 1, 2017	3% max	\$449,790 max
Five Year Compensation			\$2,231,309
Total Maximum Compensation			\$3,563,153

* City Manager may increase up to 20% per year, if necessary

FISCAL IMPACT: There is sufficient funding included in the Maintenance Division's FY 2010/11 Proposed Operating Budget for the first 12 months of the agreement for the on-site fleet parts and inventory program. For any remaining contract terms, staff will continue to propose funding for the program through the annual operating budget process. The Agreement will automatically terminate if: 1) at the end of any fiscal year, funds for the agreement are not appropriated for the following fiscal year; or 2) at any time within a fiscal year, funds are only appropriated for a portion of the fiscal year and funds for the agreement are no longer available. Termination due to non-appropriation of funds shall not constitute a breach or event of default under the agreement and the City shall not incur any penalty or liability due to such termination.

ENVIRONMENTAL REVIEW: N/A

ENCLOSURE: None

RECOMMENDATION:

1. Authorize the City Manager or designee to enter into an agreement with Genuine Parts Company, doing business as Napa Auto Parts, for an on-site parts and inventory program, for a three-year contract with five additional one-year options, in an amount not to exceed \$443,948 in any contract year through June 30, 2013, with a total contract value not to exceed \$1,331,844 during the initial three-year contract term; and
2. Authorize the City Manager or designee to execute up to five one-year extensions to the contract with Genuine Parts Company for an on-site fleet parts and inventory program as described herein; and
3. Authorize the City Manager or designee to amend the agreement to increase the annual not-to-exceed amount, if necessary, by up to 20% in any year, so long as sufficient budget appropriation exists, to provide for year-to-year variance in parts and/or service needs.

7.4 GENERAL PLAN 2030—OVERVIEW OF REMAINING DRAFT ELEMENTS PRIOR TO ISSUANCE OF WORKING DRAFT
Overview of Parks and Recreation, Public Facilities, Economic Development, Conservation and Natural Resources, and Safety Elements; and Discussion of Next Steps Prior to Public Issuance of Working Draft of General Plan 2030

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Executive Summary: Staff has previously presented to the City Council and received City Council input and direction on most of the significant changes proposed for the Working Draft of General Plan 2030. This presentation will present several remaining proposed changes that have not yet been discussed with the Council. Staff will also review next steps regarding preparation of the Working Draft and conducting public outreach.

BACKGROUND: Over the past three and a half years, community members, City staff, members of City Boards and Commissions, and the City Council have provided extensive input on the City's General Plan Update. Using a strategy developed by a group of about 40 community volunteers, the General Plan team engaged the community through a variety of venues: a General Plan tent at the Celebrate Fremont event in Central Park; a series of eight well-attended neighborhood workshops; an on-line community survey; several "targeted issue" forums covering topics like climate change, housing, and urban design along Fremont Boulevard; and presentations at meetings of community groups and at community events.

At the same time much of this public input was being gathered, the City conducted or commissioned a number of technical studies that provided baseline information and made policy recommendations. These included a Retail Study, an Industrial Land Use Study, and the Envision Fremont Boulevard design exercise and report. Staff also prepared a series of background reports summarizing existing conditions on topics including Housing, Transportation, Land Use, and Natural Resources.

Throughout the process, the City Council and Boards and Commissions have also provided input and direction. Tonight's General Plan discussion marks the 30th session with the Council on the General Plan since the start of the project; staff has also held 18 sessions with the Planning Commission, and has presented information and received feedback on the General Plan from the Economic Development Advisory Commission, the Human Relations Commission, the Art Review Board, and other advisory bodies.

One outcome from this effort to-date is that the City adopted an updated Housing Element of the General Plan in July 2009 and received State certification in October, 2009; as of this writing, Fremont is still the only community in Alameda County to receive State certification of its Housing Element for the 2009 cycle.

For the other Elements of the General Plan, staff has prepared draft Goals and Policies and is completing the draft text. Over the past few months, in anticipation of releasing a working draft of the General Plan in the summer of 2010, staff has presented a variety of topics to the Council: an overview of the draft General Plan Sustainability Element (which serves as an index to sustainability policies found in all other Elements of the Plan) in January, 2010; the draft “Vision Book” in February, 2010; the draft Land Use Map, Land Use Designations, and Land Use goals and policies in March, 2010; the draft Mobility goals and policies in April, 2010; and an overview of the draft Community Character Element in April, 2010. In these sessions, staff has highlighted the major new goals, policies and actions in General Plan 2030 and has received Council input and direction.

This report provides a brief overview of the remaining draft Elements of the General Plan (Economic Development, Parks and Recreation, Public Facilities, and Safety). Although most of the important policy issues and changes in these Elements were covered in previous sessions, a review of the remaining elements will ensure that staff receives City Council input on all topical areas prior to issuance of the working draft.

DISCUSSION/ANALYSIS:

Parks and Recreation Element

- **Expanded Park Definitions**

The draft Element adds new and expanded categories of public parks. A new “Linear Park” category recognizes the recreational opportunities and benefits provided by bicycle and pedestrian trails and incorporates these trails into the City’s park system. This will also help the City meet other goals including reducing vehicle trips and promoting public health by encouraging walking and cycling.

The draft Element also expands the existing “Civic Park” category so that public gathering places in the town centers like Niles Town Plaza and Bill Ball Plaza can be incorporated into the parks system. Civic Parks are only allowed in the City Center under the current General Plan.

- **Acreage Standard**

Based on City Council direction, the draft Element retains the City’s current standard of five acres of parkland per 1000 residents. While the mix of park types will change with the addition of new park categories, Fremont will continue to meet a high standard of parkland for its residents.

- **Sustainability in Park Operations**

Based on City Council direction, the draft Element emphasizes sustainability in park operations. Example policies and implementation measures include measures to conserve water, reduce stormwater runoff, reduce vehicle emissions, and utilize Integrated Pest Management.

- **Parks Maintenance**

The draft Element recognizes that maintenance demands on parks will continue to grow even as available funding remains flat or declines. It includes a measure to gauge community interest in establishing a citywide maintenance assessment district to fund parks maintenance. It also raises the possibility of instituting a weekend parking fee at Central Park as a way to raise funds for maintenance.

Public Facilities

- **Consolidated, New, and Expanded Facilities**

The Public Facilities Element reiterates the City's plans to consolidate its administrative offices and Family Resource Center into one City Administration building in the Midtown. The Element also envisions construction of a new Performing Arts Facility in the Midtown if funding can be identified. The Element retains the City's long-term goal to construct a new combined Senior/Community Center in Northgate Community Park and to construct a third Senior Center in the Warm Springs area. It also calls for additional library hours at existing branches if funding can be identified. Finally, the Element calls for expanding the Police Building and the Fremont Family Resource Center as necessary to accommodate increasing community needs in the future.

- **Sustainability in City Buildings and Equipment**

Pursuant to input from the community and the City Council, the Element contains a variety of measures to "green" City buildings and equipment, including conversion to LED streetlights, purchase of alternate fuel vehicles, energy efficiency and water conservation in City buildings and operations, and support for efforts to create a regional network of recharging stations for electric vehicles.

- **Communication and Collaboration with School District**

One of the common themes that community members raised at public workshops was the importance of City collaboration with the School District. The Element includes policies for the City to consult with FUSD when formulating community plans; to provide periodic updates to the FUSD Board and staff on development activity and long-range planning efforts; and to work with schools on addressing traffic and parking issues.

- **Coordination with Water District, Sanitary District, and PG&E**

The City will continue to coordinate its planning efforts with utility providers to ensure that infrastructure capacity is sufficient for future development. One of the key strategies for ensuring sufficient capacity will be reducing consumption through conservation.

- **Telecommunications Infrastructure**

Example policies and implementation measures include encouraging upgrades to local fiber optic networks, encouraging developers to pre-wire new structures to accommodate emerging technologies, and pursuing opportunities to offer free wireless services in Fremont.

- **Child Care**

Child care policies are located in the Public Facilities Element in recognition of child care's importance in early childhood development and preparation for the K-12 school system. Example policies and implementation measures include granting a density bonus to large commercial, industrial and residential projects that include child care facilities; encouraging provision of child care in new multi-family housing developments; and reviewing and revising the Zoning Ordinance to reduce unnecessary obstacles to the development of child care facilities.

- **Waste Management**

The Element establishes a new long-term objective to eliminate landfill waste, while retaining the intermediate-term objective of achieving a 75% diversion rate.

Economic Development

The Economic Development Element highlights Fremont’s longstanding commitment to creating a healthy business climate that produces jobs matching the skills and education of the local population, as well as revenues to support municipal services. Many goals and policies related to business recruitment and retention have been modified and carried forward from the current General Plan. New goals, policies and measures include:

- **Focusing Retail Development**
The Element includes a measure to focus retail uses in existing retail-designated locations, and to consider redesignating other land to retail only in extraordinary circumstances.
- **Industrial Land Uses**
Goals and policies related to industrial land use include providing for a variety of industrial uses to buffer the local economy against industry specific downturns, and providing adequate industrially-zoned land in each zoning category to accommodate a wide range of industrial uses. These goals and policies work in conjunction with related policies in the Land Use Element.
- **Promoting International Trade**
The Element includes goals and policies to participate in regional trade efforts, translate business materials into other languages, and related measures to position Fremont to benefit from international trade.
- **Promoting Environmental Sustainability in the Business Sector**
New goals and policies include promoting Fremont as a destination for “clean and green” technology and promoting environmentally sustainable business practices through education and assistance.

Conservation and Natural Resources

Significant new goals and policies in the Conservation and Natural Resources Element were presented as part of the sustainability overview provided to Council in January 2010. These included development and periodic updates of a Climate Action Plan, implementing green building standards, evaluating the feasibility of an Energy Conservation Ordinance, and considering requirements for pre-wiring of new homes for future installation of solar photovoltaic panels.

Safety

The Safety Element includes goals, policies and measures to mitigate risks from fires, floods, and natural disasters. It also includes a discussion of noise that meets the State-mandated requirement for inclusion of a Noise Element in the General Plan. Finally, it includes a section on crime-preventative community planning.

Most of the goals and policies are updated versions of existing general plan goals and policies. The most significant new measures include: preparation by 2014 of an Adaptation Plan for the impacts of anticipated sea level rise related to climate change; evaluating adoption of a noise ordinance to control noise generating activities such as construction activity, heavy industrial equipment, loudspeakers, leaf blowers, etc; and incorporating crime preventative design principles in development projects.

NEXT STEPS: Staff will now focus on completing the Working Draft General Plan and the accompanying Vision Book in summer 2010. Staff will also begin planning for public workshops and

other outreach in fall 2010 to inform the community about the contents of the Working Draft Plan and to seek input. Work on the Environmental Impact Report (EIR) will also begin.

FISCAL IMPACT: Preparation and production of the remaining Elements of the General Plan and of the EIR are included in the existing General Plan Update project budget.

ENVIRONMENTAL REVIEW: CEQA Notice of Preparation will be issued to commence the environmental review process

ENCLOSURE: None

RECOMMENDATION: Provide input to staff on goals, policies and measures presented.

8.1 Council Referrals

8.1.1 COUNCILMEMBER CHAN REFERRAL: Request the City Council to Consider Supporting “Get Connected!” a Public Awareness and Education Program Designed to Reach California Residents that have not yet Adopted Broadband Technology

I am proposing that the City Council direct the City Manager and staff to prepare a resolution in support of “Get Connected!” a public awareness and education program designed to reach California residents that have not yet adopted broadband technology.

“Get Connected!” is a comprehensive statewide public awareness program, first unveiled in Los Angeles County, that educates targeted populations about the economic and social benefits of broadband connectivity. The program aims to break down barriers and address misperceptions that perpetuate the Digital Divide that currently exists in California.

The program seeks to increase awareness of the value of broadband through an array of communication vehicles, including a multilingual Web portal for new users, TV and radio commercials, and Community Connect Fairs that provide hands-on experience with broadband. The program also includes Champions for Access, which are organizations across a variety of industry sectors that sponsor and fund “Get Connected!” initiatives.

Launched by the California Emerging Technology Fund (CETF), the program is aimed at reaching low-income Latinos, African Americans, Asian Americans and non-Hispanic whites. Priority communities include rural and remote areas, disadvantaged urban neighborhoods, and people with disabilities.

ENCLOSURES: None

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF.....	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
May 11, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 18, 2010	6:00 p.m.	Work Session	Council Chambers	Live
May 25, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 1, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 8, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 15, 2010	TBD	Work Session	Council Chambers	Live
June 22, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 29, 2010 (5 th Tuesday)	TBD	No City Council Meeting		
July 6, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 13, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 20, 2010	TBD	Work Session	Council Chambers	Live
July 27, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
		August Recess		
September 7, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 14, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 21, 2010	TBD	Work Session	Council Chambers	Live
September 28, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live